IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE THIRTEENTH DAY OF JULY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE ELIPE DHARMA RAO

WRIT PETITION NO : 15033 of 2005

Between:

Boddu Manjula, W/o.Venkataramana,
R/o.Palasa, Palasa Mandal, Srikakulam District.

..... PETITIONER

AND

1 The Mandal Revenue officer, Palasa Mandal, Srikakulam Dist.
2 The Commissioner, Palasa Kasibugga Municipality, Srikakulam District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an appropriate writ, order or direction more particularly a writ in the nature of writ of Mandamus declaring the notice Rekha No.355/2005 dated 1-7-2005 issued by the 1st respondent Mandal Revenue officer, palasa, Srikakulam district as illegal and arbitrary and consequently to set aside the same, as otherwise the petitioner suffer irreparable loss and injury.

Counsel for the Petitioner: MR.A.RAVI SHANKAR

Counsel for the Respondent No.1: GP FOR REVENUE

Counsel for the Respondent No.2: Mr. S. Nageswara Reddy.

This Court at the admission stage made the following:

O R D E R:

The petitioner seeks a Mandamus declaring the action of the first respondent in issuing a notice, dated 01-07-2005, as illegal and arbitrary, and consequently to set aside the said notice.

The case of the petitioner is that her father-in-law was in possession of land in an extent of one and a half acre, wherein he raised a hut. It is stated that in 1996, her husband constructed a small asbestos tin shed and they have been residing therein and that in the very same year, they made an application for grant of house site patta in respect of the said land. Accordingly, on 30-07-2000, the Mandal Revenue Officer, the first respondent granted house site patta in favour of the petitioner. Thereafter, they submitted a plan to the Commissioner, Palasa Kasibugga Municipality, the second respondent for sanction plan for construction of a new house. The second respondent instructed the first respondent to verify as to the correctness or otherwise of the granting of house site patta in favour of the petitioner and the first respondent, in turn, informed about granting of house site patta in favour of the petitioner. Then, the second respondent by order, dated 30-06-2005, sanctioned a lay out plan and accordingly the petitioner is proceeding with the construction of RCC roof house in the land-in-question. While so, the first respondent issued a notice, dated 01-07-2005, directing the petitioner to stop the construction work and to appear before him on 04-07-2005 at 11-00 A.M. for enquiry. The petitioner did so and has given reply to the impugned notice. Despite the fact that the petitioner has given reply to the impugned notice, the first respondent, for the reasons best known to him, failed to give reasons for stopping the construction work. Hence, the writ petition.

Heard the learned counsel on either side and perused the material on record.

From a perusal of the material on record, it is abundantly clear that on 30-07-2000, the first respondent, after conducting enquiry, granted house site patta in favour of the petitioner and the second respondent by order, dated 30-06-2005, granted lay out plan for construction of house in the land-in-question. Hitherto the petitioner has been in possession enjoyment of the land-in-question since the date of grant of patta. Despite the said fact, the first respondent, at the time when the petitioner is proceeding with the construction of house as per the lay out plan, dated 30-06-2005, without there being any reason whatsoever, issued the impugned notice, dated 01-07-2005. This is nothing but a deliberate attempt made by the first respondent. It is to be seen that though the petitioner appeared before the first respondent and gave reply to the impugned notice, nothing has been transformed from the first respondent, except adjourning the matter. In the circumstances, the impugned notice cannot be sustained and the same is liable to be set aside.

The writ petition is accordingly allowed and the impugned notice, dated 01-07-2005, is set aside. No costs.

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(ELIPE DHARMA RAO, J)

Date:13-07-2005

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To

1 The Mandal Revenue officer, Palasa Mandal, Srikakulam Dist.
2 The Commissioner, Palasa Kasibugga Municipality, Srikakulam District.

3 Two CCs to the Government Pleader for Revenue, High Court of A.P., Hyderabad. (O.U.T.)

4 Two CD copies.